

BEFORE THE

**Federal Communications Commission**

WASHINGTON, D.C. 20554

In the Matter of )  
 Replacement of Part 90 by Part 88 )  
 to Revise the Private Land Mobile )  
 Radio Services and Modify the )  
 Policies Governing Them )  
 and )  
 Examination of Exclusivity and )  
 Frequency Assignments Policies of )  
 the Private Land Mobile Services )

To: The Commission

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Federal Communications Commission  
Office of Secretary

PR Docket No. 92-235

COMMENTS ON PETITION FOR RECONSIDERATION

Manufacturers Radio Frequency Advisory Committee, Inc. ("MRFAC"), by its counsel, hereby submits its comments on the Petition for Reconsideration filed by American Petroleum Institute ("API") in the above-captioned proceeding. MRFAC does not oppose API's request that the Commission implement protected service contours ("PSCs") for existing Petroleum Radio Service systems; however, in MRFAC's view this relief should be extended to manufacturers at the same time, or implemented across the board for all incumbents. In support MRFAC submits the following:

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## **BACKGROUND**

In consolidating the 20 Private Land Mobile Radio ("PLMR") Services into two pools -- Public Safety and Industrial/Business ("I/B") -- the Commission allowed the Petroleum, Power and Railroad Radio Service coordinators to maintain coordinator status for frequencies previously allocated exclusively to those Services. By contrast, any I/B coordinator may handle applications for frequencies previously shared by one or another of these Services with another user group. Second Report and Order, 62 Fed. Reg. 18536 (April 17, 1997).

In its Petition for Reconsideration, API argues that because it has relatively few exclusive assignments, the Commission's coordination plan is "unacceptable". Petition for Reconsideration, at page 4. API goes on to contend that, without a PSC for operations on these shared channels, it will not be able to protect Petroleum Radio Service systems.

## **DISCUSSION**

MRFAC does not oppose API's Petition in principle. However, in MRFAC's view the request is premature. The Commission has under consideration proposals which look toward the authorization of protected service areas for Part

90 systems. See Report and Order and Further Notice of Proposed Rulemaking, in PR Docket No. 92-235, FCC 95-255, released June 23, 1995. The comment cycle is completed and a decision is pending. In the interests of fairness and sound administration, that decision should be made for the benefit of all parties prior to the effective date of the rules on consolidation this October. In other words, rather than carve out one class of users (petroleum companies) for PSCs, the Commission should issue a general decision on PSCs which all incumbents could take advantage of.

If, despite this, the Commission should be inclined to entertain API's request, it should grant manufacturers the same relief. As with API, manufacturing operations are fraught with safety issues.

For example, manufacturers' radio systems are used to monitor tanks containing volatile chemicals. Emergency Medical Radio Systems (e.g. man-down systems) are used by employees working in isolated, potentially hazardous environments; these systems automatically transmit distress signals to emergency personnel when the unit senses that a worker is in danger. Radio systems are used to evacuate plants in emergency situations and emergency medical personnel are radio equipped. These are just a few examples

of the use of radio to enhance manufacturing safety.<sup>1</sup> Given the risks attendant to manufacturing, it should not be surprising that Occupational Safety and Health Administration ("OSHA") regulations impose communications systems requirements on manufacturers. OSHA Standards §§ 1910.120 (establishing emergency communications command posts in order to deal with hazardous materials accidents); 1910.1146(d)(4)(iii), (j)(3), (I)(5) (emergency evacuation communication systems).

Given manufacturers' safety concerns, they too should be accorded PSC status on frequencies shared with petroleum users. This is especially the case given the fact that the two user groups have shared these frequencies co-equally (and harmoniously) for many years.<sup>2</sup>

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<sup>1</sup> It should be recalled that many large manufacturing complexes resemble small cities. Indeed, they may dwarf nearby communities in size and, in fact, provide essential fire and ambulance services to these communities.

<sup>2</sup> API acknowledges that the sharing has been harmonious: "the majority of oil and gas systems are shared with a well-defined universe of conscientious licensees," i.e. manufacturers and forest products companies. Petition at 8; see also id. at 7.

**CONCLUSION**

Accordingly, if the Commission is inclined to grant API's Petition, PSCs should also be adopted for manufacturers licensed on the frequencies shared with petroleum users. In the alternative, the Petition should be acted upon at the time a general decision issues with respect to PSCs.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Charlene A. Gillis, a secretary at Arter & Hadden, do hereby certify that I have caused to be sent on this 19th day of June, 1997, a copy of the attached "Comments on Petition for Reconsideration" via United States mail, first class postage prepaid, to the following individuals:

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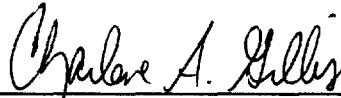
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